FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE
Cri. WRIT PETITION NO. 162 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. Court's or Judge's orders

Mr. S.A. Sawant for Petitioner.
Mr. A.S. Gadkari APP for Respondents

CORAM:B.H. MARLAPALLE
&
SMT. R.S. DALVI JJ.

DATE:13/1/2006

P.C.:

This petition is filed under Article 227 of the Constitution of India for quashing the notice issued by the Nasik District Consumer Disputes Forum, Nashik in complaint no. RA-49/2000 by invoking the powers under Section 27 of the Consumer Protection Act, 1986.

Complaint no. 417 of 1995 was filed against the present petitioner before the said forum which allowed the said complaint partly by directing to pay anamount of Rs.1,42,350/- plus Rs.50,000/- for deficiency in service, mental agony and interest totaling to Rs.1,92,350/-. It appears that the said order was not implemented and therefore the original complainant approached the forum with an application under Section 27 of the Act, seeking to comply with the order passed in favour of the complainant. The petitioner therefore has approached this court challenging the powers of the

Forum to punish them with imprisonment or with fine in the absence of the forum having been vested with the powers of a Judicial Magistrate.

The constitutional validity of the Act has been put to rest by a Three Judge Bench decision of the Apex Court in the case of State of Karnataka vs. Vishwabarathi House Building Coop. Society & Ors., reported in 2003 1 AD(S.C.) 618. At the same time the Parliament amended the Act by Act 62 of 2002 and sub section 2 of section 27 has given the powers to the Forum that of the Judicial Magistrate First Class for the trial of offences under the Act and on such conferment of the powers the Forum shall be deemed to be a Judicial Magistrate , First Class for the purpose of the Code of Criminal Procedure. Even otherwise in the case of State of Karnataka (supra) it has been held that a statutory Tribunal which has been conferred with the power to adjudicate a dispute and pass necessary orders has also the power to implement its order. Further, the Act which is a self contained Code, even if it has not been specifically spelt out, must be deemed to have conferred upon the Tribunal all powers in order to make its order effective.

In view of the well settled legal position and with the incorporation of section 2 to section 27 of the Act nothing further remains in the challenge raised in this petition.

In the premises the petition is dismissed. Needless to mention the forum will hear the parties concerned and decide the application for implementing the order as per section 27(2) of the Act,if the same is still pending. Rule discharged. Interim order, if any, stands cancelled.

(SMT. R.S. DALVI J.) (B.H. MARLAPALLE J.)